

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUSTIN MAPLES,

Plaintiff,

1:12-cv-00294 JB/RHS

vs.

**MATTHEW VOLLMER,
an Officer of the Albuquerque
Police Department, Individually,**

**D. FOX,
an Officer of the Albuquerque
Police Department, Individually,**

**CITY OF ALBUQUERQUE,
a municipality organized under the
laws of the State of New Mexico,**

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION IN LIMINE NO. 2:
PROHIBIT TESTIMONY OR EVIDENCE REGARDING DEFENDANT POLICE
OFFICERS' GOOD CHARACTER, AWARD OR "LIFE IN JEOPARDY"
CLAIMS**

COME NOW, Defendants Matthew Vollmer, D. Fox and the City of Albuquerque, by and through Assistant City Attorney Kristin J. Dalton, and respectfully respond in opposition to Plaintiff's Motion in Limine No. 21: Prohibit Testimony or Evidence Regarding Defendant Police Officers' Good Character, Award or "Life in Jeopardy" Claims. [Doc. 33] In support of their Response, Defendants state as follows:

Plaintiff seeks to exclude evidence, argument, opinion or other testimony concerning Defendants' awards or "accolades" received during their careers as well as claims from the officers that they "risk their lives" for the citizens of Albuquerque. To

the extent that Plaintiff's motion could be interpreted broadly and that Defendants not be allowed to testify about their current positions with the Albuquerque Police Department or that responding to a domestic violence and/or suicide call is one of the most dangerous police activities, Defendants oppose Plaintiff's motion. Defendants also oppose Plaintiff's motion to extent it would preclude testimony on officer safety concerns in responding to a frantic 911 call from Sarah Lane, particularly when the caller, Ms. Lane, indicated that a potentially suicidal male, unknown if he was armed with weapons, was trying to gain access to the home located at 1111 Major Ave. NW. This type of evidence relates directly to this case and was within the officers' knowledge as they responded to the 911 call and is directly relevant to the claims at issue in this case. *See, e.g. Graham v. Connor*, 490 U.S. 386, 396 (1989) (factors to be considered are "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers and others, and whether he is actively resisting arrest or attempting to evade arrest by flight.").

WHEREFORE, Defendants respectfully request that this Court deny Plaintiff's Motion in Limine No. 2: Prohibit Testimony or Evidence Regarding Defendant Police Officers' Good Character, Award or "Life in Jeopardy" Claims.

Respectfully submitted,

CITY OF ALBUQUERQUE
David J. Tourek, City Attorney

/s/ Kristin J. Dalton

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*Attorney for Defendants City of
Albuquerque, Matthew Vollmer and D. Fox*

I certify that a true copy of the
foregoing pleading was e-filed and
served to:

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Attorneys for Plaintiff

on this 4th day of March, 2013.

/s/ Kristin J. Dalton
Assistant City Attorney